

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**WILLIAM LANIER ELLIS, SR.,**

**Plaintiff,**

**v.**

**TOMMY BOSWELL,**

**Defendant.**

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**Civil Action No. 3:08-cv-55-WKW-SRW**

**ANSWER**

COMES NOW Russell County Sheriff, Tommy Boswell, the Defendant in the above styled cause, and in response to the Plaintiff's Complaint states as follows:

Plaintiff brings his suit under 42 U.S.C. § 1983 and alleges claims for violation of his rights under the Eighth Amendment to the United States Constitution and Alabama law. The Defendant in this action denies each and every allegation made by the Plaintiff, William Ellis, and demands strict proof thereof. The Defendant denies that he acted, or caused anyone to act, in such a manner so as to deprive the Plaintiff of his constitutional rights.

**Affirmative Defenses**

1. The Plaintiff's Amended Complaint, separately and severally, fails to state a claim upon which relief may be granted.

2. The Defendant, in his individual capacity, is entitled to qualified immunity from the Plaintiff's federal claims.

3. The Defendant, in both his individual and official capacities, is entitled to absolute immunity from the Plaintiff's state law claims.

4. The Defendant, in his official capacity, is entitled to absolute immunity from the Plaintiff's claims pursuant to the Eleventh Amendment to the United States Constitution.

5. The Defendant, in his official capacity, is not a "person" under 42 U.S.C. § 1983.

6. The Plaintiff's claims are barred by the Prison Litigation Reform Act.

7. The Plaintiff has not alleged the personal involvement of this Defendant in any action made basis of this Complaint.

8. The Plaintiff's claims are based upon a theory of *respondeat superior* and are not supported by 42 U.S.C. § 1983.

9. The Defendant reserves the right to supplement this Answer by adding additional affirmative defenses as the facts of this case are developed and if discovery is ordered by the Court.

WHEREFORE, PREMISES CONSIDERED, Defendant Tommy Boswell, Russell County Sheriff, requests this Court to enter judgment in his favor and grant unto him costs and attorney's fees pursuant to law and 42 U.S.C. § 1988.

Respectfully submitted this 31st day of March, 2008.

**s/Joseph L. Hubbard, Jr.**  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this the 31st day of March, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and certify that I have mailed by United States Mail, postage prepaid, a true and correct copy of such filing to the following non-CM/ECF participant:

William Lanier Ellis, Sr.  
c/o Russell County Jail  
Post Office Box 640  
Phenix City, Alabama 36868

**s/Joseph L. Hubbard, Jr.**  
OF COUNSEL